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In re Application of FENNER et al
U.S. Application No.: 09/269,518
PCT Application No.: PCT/GB97/02940
Int. Filing Date: 27 October 1997
Priority Date Claimed: 28 October 1996
Attorney Docket No.: 34703.00006
For:

DECISION

This is in response to applicant's "Petition Under 37 CFR§ 1.181" filed 01 October 2003.

BACKGROUND

On 27 October 1997, applicant filed international application PCT/GB97/02940, which claimed priority of an earlier United Kingdom application filed 28 October 1996. A copy of the international application was communicated to the USPTO from the International Bureau on 07 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 28 April 1999.

On 02 April 1999, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 March 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 15 June 2001, applicant purportedly filed an executed declaration.

On 01 October 2001, applicant filed the present petition under 37 CFR 1.181 including a copy of a return postcard receipt.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 15 June 2001. Specifically, the copy of the return postcard, which includes a "Declaration" in its itemized contents and which bears a USPTO date stamp of 15 June 2001, serves as *prima facie* evidence that the declaration was received by the USPTO on 15 June 2001.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 27 October 1997, and a date under 35 U.S.C. 371(c) of 15 June 2001.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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